

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

TESTING TECHNOLOGIES, INC., and
MG PREP, INC.

Plaintiffs,

VS.

MO MEDIA, LLC, PAUL OWENS, and
JOHN DOES 1-10

Defendants.

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Civil Action No. 07 Civ 7360

**ANSWER TO FIRST
AMENDED COMPLAINT**

COMES NOW Defendant, MO MEDIA, LLC., and files this Answer to Plaintiffs' First Amended Complaint and in support thereof shows this court as follows:

I. ADMISSIONS AND DENIALS

1. Defendant denies paragraph 1.
2. Defendant denies paragraph 2.
3. Defendant is without knowledge or information sufficient to form a belief about the truth of paragraph 3.
4. Defendant is without knowledge or information sufficient to form a belief about the truth of paragraph 4.
5. Defendant admits that it is a Texas Limited Liability Company and that its principal place of business is in Texas, and that Paul Owens and Peter Morrison reside in Texas. Defendant admits that it is in the business of selling test preparation materials, and that its website is www.mo-media.com, but denies the remainder of Paragraph 5.
6. Defendant denies paragraph 6.
7. Defendant denies paragraph 7.
8. Defendant denies that venue is proper and denies paragraph 8.
9. Defendant is without knowledge or information sufficient to form a belief about the truth of paragraph 9.

10. Defendant admits paragraph 10.
11. Defendant denies paragraph 11.
12. Defendant denies paragraph 12.
13. Defendant denies paragraph 13.
14. Defendant denies paragraph 14.
15. Defendant denies paragraph 15.
16. Defendant denies paragraph 16.
17. Defendant denies paragraph 17.
18. Defendant denies paragraph 18.
19. Defendant denies paragraph 19.
20. Defendant denies paragraph 20.
21. Defendant denies paragraph 21.
22. Defendant denies paragraph 22.
23. Defendant denies paragraph 23.
24. Defendant denies paragraph 24.
25. Defendant denies paragraph 25.
26. Defendant denies paragraph 26.
27. Defendant denies paragraph 27.
28. Defendant denies paragraph 28.
29. Defendant denies paragraph 29.
30. Defendant denies paragraph 30.
31. Defendant denies paragraph 31.
32. Defendant denies paragraph 32.

- 33. Defendant denies paragraph 33.
- 34. Defendant denies paragraph 34.
- 35. Defendant denies paragraph 35.
- 36. Defendant denies paragraph 36.
- 37. Defendant denies paragraph 37.
- 38. Defendant denies paragraph 38.
- 39. Defendant denies paragraph 39.
- 40. Defendant denies paragraph 40.
- 41. Defendant denies paragraph 41.
- 42. Defendant denies paragraph 42.
- 43. Defendant denies paragraph 43.
- 44. Defendant denies paragraph 44.
- 45. Defendant denies paragraph 45.
- 46. Defendant denies paragraph 46.
- 47. Defendant denies paragraph 47.
- 48. Defendant denies paragraph 48.
- 49. Defendant denies paragraph 49.
- 50. Defendant denies paragraph 50.
- 51. Defendant denies paragraph 51.
- 52. Defendant denies paragraph 52.

Defendant denies that Plaintiff is entitled to the relief sought in paragraphs A 1-9.

II. DEFENSES

Even if Plaintiff prove the allegations in its Complaint, Defendant is not liable to Plaintiff for the following reasons:

1. Plaintiffs have failed to state a claim.
2. Venue is not proper in the Southern District of New York.
3. Plaintiffs lack standing under the Lanham Act to bring this action.
4. The language complained of in Defendant's web-site, which is made the basis of this suit, is non-actionable "puffery" and cannot form the basis of a Lanham Act claim.
5. Plaintiffs are not entitled to equitable relief since the Plaintiffs have unclean hands.
6. Plaintiffs have failed to alleged fraud with particularity under Rule 9(b).
7. The statements complained of by Plaintiffs are true or substantially true.
8. To the extent that Plaintiffs have suffered any damages, it is result of actions or inactions outside of Defendants control.
9. To the extent that Plaintiffs have suffered any damages, Plaintiffs cannot prove that Defendants are the proximate cause thereof.
10. To the extent that Plaintiffs have suffered any damages, Plaintiffs have failed to mitigate their damages.

III. PRAYER


WHEREFORE, PREMISES CONSIDERED, Defendant, respectfully requests that Plaintiffs take nothing by reason of its Complaint and that judgment be rendered in favor


of this Defendant; that this Defendant be awarded its costs of suit incurred in defense of this action; and that this Defendant have any and all other relief, in law or in equity, to which this Defendant may be justly entitled.

Dated: Beaumont, Texas
January 11, 2008

Respectfully submitted,

ROEBUCK & THOMAS, PLLC


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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above document was served by facsimile and certified mail/return receipt requested to Mr. John S. Selinger, Zeccola & Selinger, LLC, 45 Webster Avenue, Goshen, New York 10924 and Mr. Thomas M. Furth, Kidman Trachten Aloe, LLP, 350 Fifth Avenue, Suite 4400, New York, New York 10118 on January 11, 2008.


Jeffrey T. Roebuck